



Board of Funeral Service

Mailing Address:
810 North Main Street, Suite 298
Spearfish, SD 57783

Phone: (605) 642-1600 E-Mail: proflic@rushmore.com
Home Page: funeralboard.sd.gov

DRAFT TELECONFERENCE **BOARD MEETING AGENDA**

TO: Board Members

FROM: Carol Tellinghuisen, Executive Secretary

DATE: October 23, 2019

MEETING DATE: November 5, 2019

MEETING TIME: 3:00 PM CST / 2:00 PM MST

MEETING LOCATION: Teleconference with public access at:
Board Office
629 Main
Spearfish, SD
605-642-1600

Persons interested in joining the meeting may do so by appearing in person for the conference call at the location listed above or by calling 605-642-1600 by November 4, 2019 to arrange for a dial in number for the teleconference.

Agenda Item Number:

1. Call to Order/Welcome and Introductions-Barns
2. Roll Call-Barns
3. Corrections or additions to the agenda
4. Approval of the agenda
5. Public Testimony/Public Comment Period at 2:05 p.m. MST-*5 minutes for the public to address the Board*
6. Approval of the minutes from May 8, 2019
7. FY Financial Update
8. Inspection Update
9. ICFSEB Annual Conference February 19-20, 2020-Palm Coast, Fl.
10. FYI-Labor Department Awarding Youth Apprenticeship Funds
11. Executive Session-Pursuant to SDCL 1-25-2
 - a. Complaints/Investigations
 - b. Inspector for Funeral Homes and Crematories 2020

Page 2

**SD Board of Funeral Service
Teleconference Meeting Agenda
November 5, 2019**

12. Any other business coming in between date of mailing and date of meeting
13. Adjourn



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DRAFT OFFICIAL BOARD MINUTES

May 8, 2019

The Lodge at Deadwood, Deadwood, SD

Members Present:

Stuart W. Barns, President
D. Scott Isburg, Vice-President
Randy Brennick, Secretary-Treasurer
Chad Osthus, Member
James Jones, Member (via teleconference)
Tony Farnen, Lay Member
Mariah Pokorny, Dept of Health (Non-voting member)

Members Absent:

David Volk, Lay Member

Others Present:

Jill Lesselyoung, Executive Assistant
Brooke Tellinghuisen Geddes, Executive Assistant
John Strohman, Office of the Attorney General (via teleconference)
Butch Bader
Lynn Bader

Call to Order/Welcome and Introductions: President Barns called the meeting to order at 1:00 PM MDT.

Roll Call: Barns asked Lesselyoung to call the roll. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farnen, yes; Pokorny, yes. A quorum was present.

Corrections or additions to the agenda: Agenda item #14 Executive Session was moved to follow agenda item #7 due to time constraints.

Approval of the agenda: Farnen made a motion to approve the agenda. Osthus seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farnen, yes.

ICFSEB Annual Meeting Update-Strohman: Strohman updated the Board on the annual conference. He advised the conference is the major mechanism for overseeing the national exam for every state. They covered a lot of good issues; model internship, updates on the latest legal cases, consumer and compliance issues and profession specific issues. He advised it was very worthwhile.

**South Dakota Board of Funeral Service
Board Meeting Minutes-May 8, 2019**

Public Comment: Butch Bader, retired funeral director voiced concerns regarding an individual he believes is practicing without a license. Strohman advised the Board is not making comments. Bader needs to follow the complaint procedure. All complaints need to come to the Board office in writing and will be processed as dictated by the complaint procedure. Barns presented a copy of the written procedure to Bader.

Election of officers: Brennick made a motion to retain Barns as President. Isburg seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes. Osthus made a motion to retain Isburg as Vice-President. Farmen seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes. Osthus made a motion to retain Brennick as Secretary-Treasurer. Jones seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes.

Executive Session-Pursuant to SDCL 1-25-2: Farmen made a motion to enter executive session at 1:22PM MT. Osthus seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes. Farmen made a motion to exit executive session at 1:27PM MT. Isburg seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes.

Complaints/Investigations:

#164: Barns recommended to dismiss complaint #164 due to lack of substantive evidence. Osthus made a motion to dismiss complaint #164 due to lack of substantive evidence. Isburg seconded the motion. **MOTION PASSED** by roll call vote. Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes; Barns, abstain.

#165: Osthus recommended to dismiss complaint #165 due to lack of substantive evidence. Brennick made a motion to dismiss complaint #165 due to lack of substantive evidence. Isburg seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, abstain; Farmen, yes. Strohman exited the meeting at 1:29PM MT.

Approval of Minutes from January 16, 2019: Osthus made a motion to approve the minutes from January 16, 2019. Farmen seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes.

FY Financial Update: Lesselyoung reported fiscal year to date figures as of March 31, 2019: revenue of \$70,880.24, expenditures of \$57,349.24 and cash balance of \$130,027.18. The Board discussed and accepted the financials as presented.

Update on Establishment/Crematory Inspections: Sogn has advised he just started and will be doing most of the inspections through the summer and fall.

**South Dakota Board of Funeral Service
Board Meeting Minutes-May 8, 2019**

Renewal Update: The Board office provided rosters of current embalmers, homes and crematories as well as data on non-renewals.

HB 1111: An act to provide for professional or occupational licensure for certain active duty military personnel and spouses passed the legislature and becomes effective July 1, 2019.

Any other bills that affect the Board: There was no other formal legislation for the Board's review.

SD Funeral Directors Association Contract: Osthus made a motion to renew the contract at the current rate of \$1500.00. Farmen seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes.

Schedule Next Meeting: The next meeting is scheduled by teleconference for November 6, 2019 at 3:00CT, 2:00MT.

Any Other Business: Pokorny advised vital records is updating to a new system.

Osthus made a motion to adjourn the meeting at 2:14PM MDT. Farmen seconded the motion. **MOTION PASSED** by roll call vote. Barns, yes; Isburg, yes; Brennick, yes; Jones, yes; Osthus, yes; Farmen, yes.

Respectfully submitted,

Randy Brennick
Secretary/Treasurer

1-27-1.17. Draft minutes of public meeting to be available--Exceptions--Violation as misdemeanor. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2019

PAGE

46

AGENCY		09		HEALTH			
BUDGET UNIT		09204		BOARD OF FUNERAL SERVICE			
CENTER		COMP		ACCOUNT		DESCRIPTION	
COMPANY NO		6503				CURRENT MONTH	
COMPANY NAME		PROFESSIONAL & LICENSING BOARDS				YEAR-TO-DATE	
092040061812		6503		4293955		FUNERAL LICENSE FEE	
ACCT:	4293					50.00	70,085.00
ACCT:	42					50.00	70,085.00
092040061812		6503		4920045		50.00	70,085.00
ACCT:	4920					.00	1,500.24
ACCT:	49					.00	1,500.24
092040061812						.00	1,500.24
CNTR:	092040061					50.00	71,585.24
CNTR:	0920400					50.00	71,585.24
COMP:	6503					50.00	71,585.24
B UNIT:	09204					50.00	71,585.24

EA0215V1 06/29/2019

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 06/30/2019

PAGE

227

AGENCY	BUDGET UNIT	HEALTH	MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT	FOR PERIOD ENDING: 06/30/2019	PAGE
CENTER-5	09204	BOARD OF FUNERAL SERVICE			
CENTER	COMP	ACCOUNT	DESCRIPTION	CURRENT MONTH	YEAR-TO-DATE
COMPANY NO	6503	PROFESSIONAL & LICENSING BOARDS			
092040061812	6503	510103000000000000	BOARD & COMM MBRS FEES	.00	420.00
ACCT: 5101		EMPLOYEE SALARIES		.00	420.00
092040061812	6503	510201000000000000	CASI-EMPLOYER'S SHARE	3.67	35.80
ACCT: 5102		EMPLOYEE BENEFITS		3.67	35.80
ACCT: 51		PERSONAL SERVICES		3.67	455.80
092040061812	6503	520303000000000000	AUTO-PRIV (IN-ST.) H/RTE	903.42	903.42
092040061812	6503	520310000000000000	LODGING/IN-STATE	125.76	125.76
092040061812	6503	520314000000000000	TAXABLE MEALS/IN-STATE	48.00	48.00
092040061812	6503	520315000000000000	NON-TAXABLE MEALS/IN-ST	69.00	69.00
092040061812	6503	520326000000000000	AIR-COMM-OUT-OF-STATE	.00	719.00
092040061812	6503	520328000000000000	OTHER-PUBLIC-OUT-OF-STATE	.00	19.95
092040061812	6503	520330000000000000	LODGING/OUT-OF-STATE	.00	571.38
092040061812	6503	520332000000000000	INCIDENTALS-OUT-OF-STATE	.00	100.00
092040061812	6503	520335000000000000	NON-TAXABLE MEALS/OUT-ST	.00	142.00
ACCT: 5203		TRAVEL		1,146.18	2,698.51
092040061812	6503	520402000000000000	DUES & MEMBERSHIP FEES	.00	250.00
092040061812	6503	520409000000000000	MANAGEMENT CONSULTANT	171.78	53,035.57
092040061812	6503	520413000000000000	OTHER CONSULTING	1,036.45	16,010.33
092040061812	6503	520416000000000000	WORKSHOP REGISTRATION FEE	.00	495.56
092040061812	6503	520418000000000000	COMPUTER SERVICES-STATE	24.75	307.83
092040061812	6503	520420000000000000	CENTRAL SERVICES	.00	889.23
092040061812	6503	520420400000000000	RECORDS MGMT SERVICES	.00	234.76
092040061812	6503	520420700000000000	HUMAN RESOURCES SERVICES	140.20	140.20
092040061812	6503	520451000000000000	RENTS-OTHER	.00	28.72
092040061812	6503	520458000000000000	TRUCK-DRAVAGE & FREIGHT	.00	45.05
092040061812	6503	520459000000000000	INS PREMIUMS & SURETY BDS	.00	1,440.00
ACCT: 5204		CONTRACTUAL SERVICES		1,373.18	72,877.25
092040061812	6503	520502000000000000	OFFICE SUPPLIES	.00	32.00
092040061812	6503	520531000000000000	PRINTING-STATE	.00	244.56
092040061812	6503	520532000000000000	PRINTING-COMMERCIAL	.00	113.07
092040061812	6503	520535000000000000	POSTAGE	76.13	245.90
ACCT: 5205		SUPPLIES & MATERIALS		76.13	635.53
ACCT: 52		OPERATING EXPENSES		2,595.49	76,211.29
COMP: 6503		PROFESSIONAL & LICENSING BOARDS		2,599.16	76,667.09
CENTER: 092040061812				2,599.16	76,667.09
B UNIT: 09204				2,599.16	76,667.09

BA1409R1

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 06/30/2019

PAGE

107

AGENCY: 09 HEALTH
BUDGET UNIT: 09204 BOARD OF FUNERAL SERVICE

COMPANY	CENTER	ACCOUNT	BALANCE	DR/CR	CENTER DESCRIPTION
6503	092000061812	1140000	111,414.33	DR	
COMPANY/SOURCE TOTAL	6503	618	111,414.33	DR *	BOARD OF FUNERAL SERVICES
COMP/BUDG UNIT TOTAL	6503	09204	111,414.33	DR **	
BUDGET UNIT TOTAL		09204	111,414.33	DR ***	

BA0225R5 09/28/2019

STATE OF SOUTH DAKOTA
REVENUE SUMMARY BY BUDGET UNIT
FOR PERIOD ENDING: 09/30/2019

PAGE

26

AGENCY 09 HEALTH
BUDGET UNIT 09204 BOARD OF FUNERAL SERVICE
CENTER COMP ACCOUNT

COMPANY NO 6503
COMPANY NAME PROFESSIONAL & LICENSING BOARDS

CURRENT MONTH

YEAR-TO-DATE

092040061812	6503	4293955	FUNERAL LICENSE FEE	7,875.00	8,200.00	
ACCT: 4293			BUSINESS & OCCUP LICENSING (NON-GOVERNMENTAL)	7,875.00	8,200.00	*
ACCT: 42			LICENSES, PERMITS & FEES	7,875.00	8,200.00	**
092040061812	6503	4920045	NONOPERATING REVENUES	.00	2,557.72	*
ACCT: 4920			NONOPERATING REVENUE	.00	2,557.72	*
ACCT: 49			OTHER REVENUE	.00	2,557.72	**
CNTR: 092040061812				7,875.00	10,757.72	***
CNTR: 092040061				7,875.00	10,757.72	****
CNTR: 0920400				7,875.00	10,757.72	*****
COMP: 6503				7,875.00	10,757.72	*****
B UNIT: 09204						*****

EA0215V1 09/28/2019

STATE OF SOUTH DAKOTA
MONTHLY OBJECT/SUB-OBJECT REPORT BY BUDGET UNIT
FOR PERIOD ENDING: 09/30/2019

PAGE

141

AGENCY BUDGET UNIT CENTER-5	09 09204 09204	HEALTH BOARD OF FUNERAL SERVICE BOARD OF FUNERAL SERVICE	CURRENT MONTH	YEAR-TO-DATE	PAGE
COMPANY NO	6503	DESCRIPTION			
COMPANY NAME	PROFESSIONAL & LICENSING BOARDS				
092040061812	6503	520313000000000000 NON-EMPLOY. TRAVEL-IN ST.	.00	272.42	
ACCT: 5203		TRAVEL	.00	272.42	
092040061812	6503	520409000000000000 MANAGEMENT CONSULTANT	.00	272.42	*
092040061812	6503	520413000000000000 OTHER CONSULTING	4,502.64	17,620.74	
092040061812	6503	520418000000000000 COMPUTER SERVICES-STATE	2,072.90	3,109.35	
092040061812	6503	520420000000000000 CENTRAL SERVICES	24.00	72.00	
ACCT: 5204		520420400000000000 RECORDS MGMT SERVICES	.00	330.06	
092040061812	6503	CONTRACTUAL SERVICES	6,599.54	62.82	
092040061812	6503	520531000000000000 PRINTING-STATE	117.48	21,194.97	*
ACCT: 5205		520535000000000000 POSTAGE	33.82	117.48	
ACCT: 5205		SUPPLIES & MATERIALS	151.30	33.82	
ACCT: 52		OPERATING EXPENSES	6,750.84	151.30	*
COMP: 6503		PROFESSIONAL & LICENSING BOARDS	6,750.84	21,618.69	**
CENTER: 092040061812			6,750.84	21,618.69	***
B UNIT: 09204			6,750.84	21,618.69	****
				21,618.69	*****

BAL409R1

AGENCY: 09 HEALTH
BUDGET UNIT: 09204 BOARD OF FUNERAL SERVICE

STATE OF SOUTH DAKOTA
CASH CENTER BALANCES
AS OF: 09/30/2019

PAGE

108

COMPANY CENTER ACCOUNT
6503 092000061812 1140000
COMPANY/SOURCE TOTAL 6503 618
COMP/BUDG UNIT TOTAL 6503 09204
BUDGET UNIT TOTAL 09204

BALANCE	DR/CR
100,553.36	DR
100,553.36	DR *
100,553.36	DR **
100,553.36	DR ***

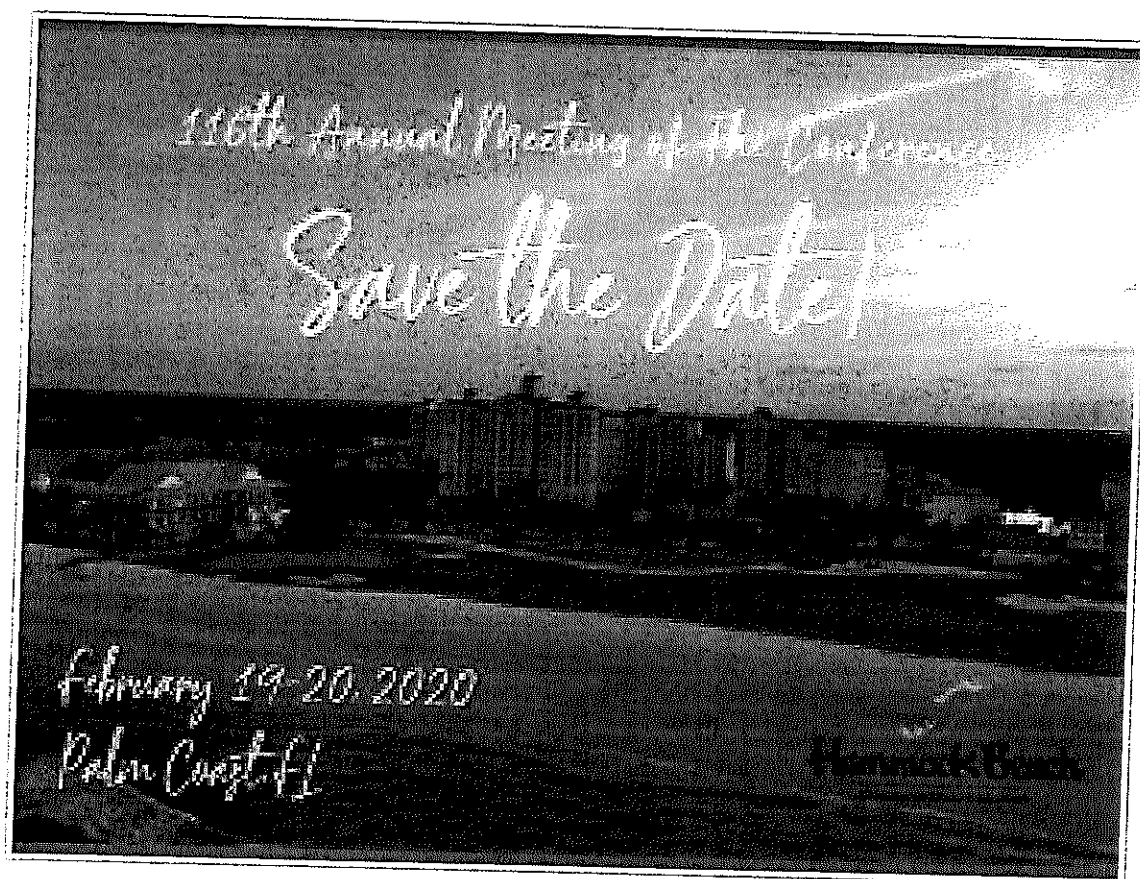
CENTER DESCRIPTION
BOARD OF FUNERAL SERVICES

Navigation



Annual Meeting

116th Annual Meeting – Palm Coast, Florida



www.VisitFlagler.com

The Board Member Training seminar will be held Tuesday, February 18, 2020.

MEETING INFORMATION

Meeting Agenda – Tentative

Annual Meeting Registration Form – Printable

Online Annual Meeting Registration Form

Board Member Training (Tuesday, February, 18, 2020)

Delegate Grant Program

Justification Toolkit

MAKING RESERVATIONS

The Hammock Beach Resort

200 Ocean Crest Dr

Palm Coast, FL 32137

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Phone: (866) 841-0287

Group Code: ICFSEB

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- Two award winning golf courses
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- Ocean inspired spa
- Multi-level pool complex with 60 foot water-slide

TRANSPORTATION

Coming Soon!

Please contact Lauren Thomas by e-mail at services@theconferenceonline.org or phone at 479-442-7076 for more information.

Regulation Information

State Licensing Requirements

Laws, Rules, Statutes, CE Reqs

Regulatory Agencies

Accredited Schools

Look Up a License®

Frequently Asked Questions

Frequently Asked Questions

Practice Exam FAQ

Report A Potential Exam Security Breach

Quality Assurance Survey

Please Mail Me!

Examination Resources

State Board Exam Sample Questions

National Board Exam Sample Questions

LRR Exam Study Guide

State Board Exam Study Guide

National Board Exam Study Guide

Practice Examination

Other Exams

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South Dakota Department of Labor & Regulation
123 W. Missouri Ave.
Pierre, SD 57501
www.sdjobs.org

For Immediate Release: Thursday, Oct. 10, 2019
Media Contact: Dawn Dovre, 605-773-3094

Labor Department Awarding Youth Apprenticeship Funds

PIERRE, S.D. – The Department of Labor and Regulation (DLR) is awarding four contracts up to \$50,000 each for the Pathway Partnership Initiative. The goal is to build high quality youth apprenticeship programs.

Proposals must demonstrate leadership and partnership between employers, secondary and post-secondary education institutions, government bodies, and community partners. Outcomes should meet local economic needs and produce equitable outcomes for students, employers, and communities.

“Youth apprenticeships help young people gain the foundational skills, experience, and credentials to thrive in a rapidly changing economy,” said state Labor and Regulation Secretary Marcia Hultman. “I know our businesses are poised to make this vision a reality, and I encourage applications for the Start Today SD Pathway Partnership.”

The funding will support partnerships in designing and implementing strategies to:

- launch, expand, and strengthen youth apprenticeship programs aligned to the Principles for High-Quality Youth Apprenticeship;
- advance system alignment to mainstream youth apprenticeship; and,
- improve understanding and awareness of youth apprenticeship to lay a foundation for sustainable expansion.

Awardees will receive technical assistance from DLR and the U.S. Department of Labor Office of Apprenticeship.

“To accelerate this work, a cohort approach will be used to develop activities,” said Secretary Hultman. “A visible, statewide group of innovators will help expand participation in youth apprenticeship programs and grow awareness of the workforce benefits.”

Applications must be submitted by 11:59 p.m. (CST) on Jan. 17, 2020. Awardees will be announced in March 2020. View the Pathway Partnership Initiative application packet on the State of South Dakota’s posting board at http://bit.ly/pathway_partnership by searching for RFP #1808.

STATE OF SOUTH DAKOTA
CONSULTANT CONTRACT
BETWEEN

Howard K. Sogn
2104 South Serenity Drive
Watertown, SD 57201
Referred to as "Consultant"

SD Department of Health
South Dakota Board of Funeral Services
810 North Main Street, Suite 298
Spearfish, SD 57783
Referred to as "State"

State and Consultant hereby enter into a contract for Professional Services.

I. CONSULTANT

- A. The term of this Contract shall begin January 1, 2019 and end December 31, 2019.
- B. Consultant is not a full or part-time employee of State or any agency of the state of South Dakota.
- C. Consultant, as an independent contractor, is solely responsible for the withholding and payment of applicable income and Social Security taxes due and owing from money received under this contract.
- D. Consultant will not use equipment, supplies or facilities owned by the state of South Dakota.
- E. Consultant will not purchase capital assets or equipment using State funds.
- F. Consultant agrees to:
 - 1. Inspect all licensed South Dakota funeral establishments and crematories between January and December of the contract year.
 - 2. Inform the Board in a timely manner if additional time is needed to inspect funeral establishments and crematories.
 - 3. Provide a copy of the inspection form on each funeral establishment and crematory to the Board of Funeral Service on a monthly basis.
 - 4. Attend board meetings as requested by the Board.
 - 5. Report to the Board and perform duties under the direction of the Board.
- G. INSURANCE: Consultant agrees, at its sole cost and expense, to maintain the following insurance:

1. Commercial General Liability Insurance:

Consultant shall maintain occurrence based commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit it shall apply separately to this contract or be no less than two times the occurrence limit.

2. Professional Liability Insurance:

Consultant shall procure and maintain professional liability insurance with a limit of not less than one million dollars.

3. Business Automobile Liability Insurance:

Consultant shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,000,000 each accident. Such insurance shall include coverage for owned, hired and non-owned vehicles.

4. Worker's Compensation Insurance:

Consultant shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.

5. Certificates of Insurance:

Before beginning work under this Contract, Consultant shall furnish State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this Contract. In the event of a substantial change in insurance, issuance of a new policy, cancellation or nonrenewal of the policy, Consultant agrees to provide immediate notice to the State and provide a new certificate of insurance showing continuous coverage in the amounts required. Consultant shall furnish copies of insurance policies if requested by State.

H. Consultant agrees to indemnify and hold the State of South Dakota, its officers, agents and employees, harmless from and against any and all actions, suits, damages, liability or other proceedings that may arise as a result of performing services hereunder. This section does not require Consultant to be responsible for or defend against claims or damages arising solely from acts or omissions of the State, its officers, agents or employees.

I. This contract does not require Consultant to engage in a function or activity involving the use or disclosure of State's Protected Health Information (PHI), as defined in the Health Insurance Portability and Accountability Act (HIPAA), 45 CFR § 160.103.

II. STATE

A. State will pay, upon State's satisfaction that services have been completed, up to \$12,437.45.

- B. State will not pay Consultant expenses as a separate item.
- C. TOTAL CONTRACT AMOUNT (Not to Exceed) \$12,437.45. Payment will be made upon receipt of itemized invoices, and consistent with SDCL Ch. 5-26.
- D. State will not be held liable for reimbursement of amounts shown on an itemized billing if not received within 30 calendar days from the close of the month being reported. However, the final invoice of the State of South Dakota fiscal year, ending every year on June 30th, shall be submitted no later than June 9th so payment may be made in the same Fiscal Year as the services are provided.

III. OTHER PROVISIONS

- A. CHOICE OF LAW AND FORUM. The terms and conditions of this contract are subject to and will be construed under the laws of the State of South Dakota. The parties further agree that any dispute arising from the terms and conditions of this contract, which cannot be resolved by mutual agreement, will be tried in the Sixth Judicial Circuit Court, Hughes County, South Dakota.
- B. INTEGRATION. This contract is a complete version of the entire agreement between the parties with respect to the subject matter within this contract and supersedes all prior or contemporaneous written or oral understandings, agreements and communications between them with respect to such subject matter. This contract may be modified or amended only by a writing signed by both parties.
- C. TERMINATION: This contract may be terminated by either party hereto upon thirty (30) days written notice, and may be terminated by State for cause at any time, with or without notice.
- D. NOTICE: Any notice or other communication required under this contract shall be in writing and sent to the address set forth above. Notices shall be given by and to the State Contact Person on behalf of State, and by and to the Consultant Contact Person on behalf of Consultant, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.
- E. ASSURANCES: The Consultant agrees to abide by all applicable provisions of the following assurances: Lobbying Activity, Byrd Anti Lobbying Amendment (31 USC 1352), Drug-Free Workplace, Executive Order 11246 Equal Employment Opportunity, Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Drug Abuse Office and Treatment Act of 1972, Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Pro-Children Act of 1994, Hatch Act, Health Insurance Portability and Accountability Act (HIPAA) of 1996, Clean Air Act, Federal Water Pollution Control Act, Charitable Choice Provisions and Regulations, Equal Treatment for Faith-Based Religions at Title 28 Code of Federal Regulations Part 38, the Violence Against Women Reauthorization Act of 2013, American Recovery and Reinvestment Act of 2009, and Section 106 (g) of the Trafficking Victims Protection Act of 2002, as amended (22 U.S.C. 7104) as applicable.
- F. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION: Consultant agrees that neither Consultant, nor any of Consultant's principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions by any Federal department or agency. Consultant will provide immediate written notice to the Department of Health, Division of Administration (600 East Capitol Avenue, Pierre, SD 57501 (605) 773-3361), if Consultant, or any of Consultant's principals, becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in transactions involving Federal funding. Consultant further agrees that if this contract involves federal funds or federally mandated compliance, then Consultant is in compliance with all applicable regulations pursuant to Executive Order 12549, including Debarment and Suspension and Participants' Responsibilities, 29 C.F.R. § 98.510 (1990).
- G. FUNDING TERMINATION: This contract depends upon the continued availability of appropriated funds and expenditure authority from Congress, the Legislature or the Executive Branch for this purpose. This contract will be terminated for cause by State if Congress, the Legislature or Executive Branch fails to appropriate funds, terminates funding or does not grant expenditure authority. Funding termination is not a default by State nor does it give rise to a claim against State.


- H. **NONASSIGNMENT/SUBCONTRACTING:** Consultant shall not assign this contract, or any portion thereof, without the prior written consent of State. Consultant's assignment or attempted assignment of this contract, or any portion thereof, without State's prior written consent constitutes a material breach of contract. The Consultant may not use subcontractors to perform the services described herein without the express prior written consent of State. Consultant will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this Agreement, to indemnify the State, and to provide insurance coverage in a manner consistent with this Agreement. Consultant will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.
- I. **FEDERAL AND STATE LAWS:** Consultant agrees that it will comply with all federal and state laws, rules and regulations as they may apply to the provision of services pursuant to this contract, including the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§ 12101-12213, and any amendment thereto, Section 306 of the Clean Air Act, and Section 508 of the Clean Water Act. Both parties further agree to provide services covered by this contract without regard to race, color, national origin, sex, age or disability as prohibited by state or federal law.
- J. **OWNERSHIP:** All reports, recommendations, documents, drawings, plans, specifications, technical data and information, copyrights, patents, licenses, or other products produced as a result of the services rendered under this contract, excluding medical records kept in the normal course of Consultant's business, will become the sole property of State. State hereby grants Consultant the unrestricted right to retain copies of and use these materials and the information contained therein in the normal course of Consultant's business for any lawful purpose. Either the originals, or reproducible copies satisfactory to State, of all technical data, evaluations, reports and other work product of Consultant shall be delivered to State upon completion or termination of services under this contract.
- K. **REPORTING OF PERSONAL INJURIES AND/OR PROPERTY DAMAGE:** Consultant agrees to report promptly to State any event encountered in the course of performance of this contract which results in injury to the person or property of third parties, or which may otherwise subject Consultant or State to liability. Reporting to State under this section does not satisfy Consultant's obligation to report any event to law enforcement or other entities as required by law.
- L. **SEVERABILITY:** In the event that any term or provision of this contract shall violate any applicable law, such provision does not invalidate any other provision hereof.
- M. **AUDIT REQUIREMENTS:**
(EXPENDING \$750,000 OR MORE)
A nonprofit subrecipient, (as well as profit hospitals) (Consultant), expending \$750,000 or more in one year in Federal awards, must have an annual audit made in accordance with 2 CFR Chapter I, Chapter II, Part 200, et al. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

All audits must be conducted by an auditor approved by the Auditor General to perform the audit. Approval may be obtained by forwarding a copy of the audit engagement letter to the Department of Legislative Audit, 427 South Chapelle, c/o 500 East Capitol, Pierre, SD 57501-5070. On continuing engagements, the Auditor General's approval should be obtained annually. The auditor must follow the Auditor General's guidelines when conducting the audit. The draft audit report must be submitted to the Auditor General for approval prior to issuing the final report. The auditor must file the requested copies of the final audit report with the Auditor General. Audits shall be completed and filed with granting agencies by the end of the ninth month following the end of the fiscal year being audited or 30 days after receipt of the auditor's report, whichever is earlier. If it appears that a required audit cannot be completed by the end of the ninth month following your fiscal year, you must request an extension from the federal agency for which the majority of federal expenditures relates.


Failure to complete audit(s) as required will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and/or awards may be suspended, until the audit is completed satisfactorily.
- N. **FORCE MAJEURE:** Neither Consultant nor State shall be liable to the other for any delay in, or failure of performance of, any covenant or promise contained in this contract, nor shall any delay or failure constitute default or give rise to any liability for damages if, and only to the extent that, such delay or failure is caused by "force majeure". As used in this contract, "force majeure" means acts of God, acts of the public enemy, acts of the State and any governmental entity in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes or other labor disputes, freight embargoes, or unusually severe weather.
- O. **CONTRACT ORIGINAL AND COPIES:** An original of this contract will be retained by the State Auditor's Office. A photocopy will be on file with the South Dakota Department of Health and a second original will be sent to Consultant.
- P. **RECORD RETENTION/EXAMINATION:** Consultant agrees to maintain all records that are pertinent to this contract and retain them for a period of three years following final payment against the contract. State agrees to assume responsibility for these items after that time period. These records shall be subject at all reasonable times for inspection, review or audit by State, other personnel duly authorized by State, and federal officials so authorized by law.

- Q. **LICENSING AND COMPLIANCE:** The Consultant agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this agreement. The Consultant will maintain effective internal controls in managing the federal award. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance or through the Consultant's failure to ensure the safety of all individuals served is assumed entirely by the Consultant.
- R. **CONFIDENTIALITY OF INFORMATION:** For the purpose of the sub-paragraph, "State Proprietary Information" shall include all information disclosed to the Consultant by the State. Consultant acknowledges that it shall have a duty to not disclose any State Proprietary Information to any third person for any reason without the express written permission of a State officer or employee with authority to authorize the disclosure. Consultant shall not: (i) disclose any State Proprietary Information to any third person unless otherwise specifically allowed under this contract; (ii) make any use of State Proprietary Information except to exercise rights and perform obligations under this contract; (iii) make State Proprietary Information available to any of its employees, officers, agents or consultants except those who have agreed to obligations of confidentiality at least as strict as those set out in this contract and who have a need to know such information. Consultant is held to the same standard of care in guarding State Proprietary Information as it applies to its own confidential or proprietary information and materials of a similar nature, and no less than holding State Proprietary Information in the strictest confidence. Consultant shall protect confidentiality of the State's information from the time of receipt to the time that such information is either returned to the State or destroyed to the extent that it cannot be recalled or reproduced. State Proprietary Information shall not include information that (i) was in the public domain at the time it was disclosed to Consultant; (ii) was known to Consultant without restriction at the time of disclosure from the State; (iii) that is disclosed with the prior written approval of State's officers or employees having authority to disclose such information; (iv) was independently developed by Consultant without the benefit or influence of the State's information; (v) becomes known to Consultant without restriction from a source not connected to the State of South Dakota. State's Proprietary Information shall include names, social security numbers, employer numbers, addresses and all other data about applicants, employers or other clients to whom the State provides services of any kind. Consultant understands that this information is confidential and protected under applicable State law at SDCL 1-27-1.5, modified by SDCL 1-27-1.6, SDCL 28-1-29, SDCL 28-1-32, and SDCL 28-1-68 as applicable federal regulation and agrees to immediately notify the State if the information is disclosure, either intentionally or inadvertently. The parties mutually agree that neither of them shall disclose the contents of the contract except as required by applicable law or as necessary to carry out the terms of the contract or to enforce that party's rights under this contract. Consultant acknowledges that the State and its agencies are public entities and thus are bound by South Dakota open meetings and open records laws. It is therefore not a breach of this contract for the State to take any action that the State reasonably believes is necessary to comply with the South Dakota open records or open meetings laws. If work assignments performed in the course of this Agreement require additional security requirements or clearance, the Consultant will be required to undergo investigation.
- S. **CONFLICT OF INTEREST:** Consultant agrees to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal organizational conflict of interest, or personal gain. Any potential conflict of interest must be disclosed in writing.
- T. **RECYCLING:** State strongly encourages Consultant to establish a recycling program to help preserve our natural resources and reduce the need for additional landfill space.


The parties signify their agreement by signing below.


Joan Adam, Director
Division of Administration
Department of Health


2/25/19
Date


Carol Tellinghuisen
Executive Director
SD Board of Funeral Services

2/1/19
Date


Kari J. Williams
Administrator, Financial Management
Department of Health

2-26-19
Date


Howard K. Sogn
Consultant

2-6-19
Date

State Contact Person: Carol Tellinghuisen

Phone: (605) 642-1600

Consultant Contact Person: Howard K. Sogn

Phone: (605) 881-3597

The following shall be completed by the Consultant:

Nonprofit _____ Profit ✓

Consultant fiscal year beginning _____ and ending 12-31-19

The following shall be completed by the State:

MSA Account code 5204 _____

Fund Source Name:	Fund Source Name:	Fund Source Name:
CFDA No:	CFDA No:	CFDA No:
Program: SD Board of	Program: SD Board of	Program: SD Board of
CO: 6503-Other	CO: 6503-Other	CO: 6503-Other

SDCL 1-24A-1 states that a copy of all consulting contracts shall be filed by the agency with the State Auditor within five days after such contract is entered into and finally approved by the contracting parties. For further information about consulting contracts, see the State Auditor's policy handbook.

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